IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 390 of 2007 (M/S)

Swami Omkaranand Charitable Trust through its President Swami Vishweshwaranand disciple of Swami Omkaranand Saraswati, Resident Omkaranand Sarswati Marg Muni Ki Reti Tehri Garhwal.

.....… Petitioner.

Versus

1. Additional District Judge-II/Special Judge, Dehradun.
2. Sri J.D.Jain Son of Sri B.P.Jain, Resident of 21/22 Old Survey Road, Dehradun, District Dehradun.
3. Administrative General, Uttarakhand, Haldwani Road, Nainital, District Nainital.

…..Respondents.

Sri Pankaj Kaushik, learned counsel for the petitioner.
Sri Gopal Narain Srivastava, learned Brief Holder for the State-respondent no.1.

Dated May 09, 2007.

Hon'ble B.S.Verma, J.

Heard learned counsel for the petitioner and perused the record.

The only prayer made in the present writ petition is that a direction be issued to the respondent no.1 to expedite and conclude the proceedings of Original Suit No. 1 of 2004, Swami Omkaranand Charitable Trust Vs. Sri J.D.Jain and another pending in that court, with the allegations that initially one J.D.Jain initiated proceedings for obtaining probate in Testamentary Case No. 28 of 2000 (new Number 1 of 2001), but subsequently the proceedings were withdrawn by filing application no. 1451 of 2001 and the proceedings were dropped vide order dated 18-12-2001. Thereafter, the Administrator General moved an application no. 5850 of 2002 purporting to be under Section 7 and 9 of the Administrator General Act and the petitioner trust has applied for a letter of administration in respect of the property vested in the Trust by way of will dated 20-12-1999 executed by Swami Omkaranand Saraswati in favour of the trust. It is also alleged that earlier also,

direction was given to the Additional District Judge Dehradun to decide the Testamentary Case No. 60 of 2001 to decide the case in three months and again an order was passed to that effect by order dated 31.10.2003 to dispose of testamentary case No. 60 of 2001 by this Court. Subsequently, the Testamentary Case was registered as O.S. No. 1 of 2004 vide order dated 23.3.2004 passed by the court concerned, i.e. Additional District Judge, Dehradun. It is also alleged that about 50 days have been fixed in the suit but the said original suit has not yet been decided. It is alleged that the evidence of the parties has already been recorded in the matter.

In the course of arguments learned counsel for the petitioner urged that the matter is pending since 2001 and it has now been registered as Original Suit No. 1 of 2004, therefore, the trial court may be directed to decide the suit expeditiously. Prayer is innocuous.

Accordingly, the trail court, i.e. Additional District Judge-II/Special Judge, Dehradun is directed to decide the O.S. No.1 of 2004, Swami Omkaranand Charitable Trust Vs. Sri J.D.Jain and another on merit in accordance with law, expeditiously, preferably within a period of six months.

With the above directions, the writ petition is disposed of finally.

All applications stand disposed of.

(B.S.Verma, J.)

RCP